

Notice of Allowability

Application No.

10/664,463

Examiner

Robert Shiao

Applicant(s)

HEGDE ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE of 10664463 filed on 07/06, 2005.
2. ☒ The allowed claim(s) is/are 1-21.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. This application claims benefit of the application:
10/244,124 (now is US 6,770,665) with a filing date September 13, 2002.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 06, 2005, has been entered.
3. Claims 1-21, filed on February 22, 2005, are pending in the application.

Responses to Arguments

4. Applicant's arguments regarding rejection of claims 1-21 under 35 U.S.C. 103(a) over Pechacek et al. US 6,015,826, filed on July 06, 2005, have been fully considered and they are persuasive. A side-by-side comparison between instant compounds No. 18 or 20 and Pechacek et al. compounds No. 120, 121, 125, 126, and 131, has demonstrated unexpected results, i.e., 80-100 % of inhibiting sucking pest of instant compounds vs. <51% of inhibiting sucking pest of Pechacek et al. compounds. Therefore rejection of claims 1-21 under 35 U.S.C. 103(a) over Pechacek et al. '826, has been withdrawn herein.

Reasons for Allowance

5. The following is an examiner's statement of reasons for allowance:

Claim 1-21 are neither anticipated nor rendered obvious over the art of record, and therefore are allowable. This invention relates to insecticidal 3-(2,6-disubstituted phenyl)-5-[5-arylthio-2-yl]-1,2,4-triazoles. The closest reference is Hegde et al. US 6,770,665, which is the parent case of instant application, discloses insecticidal 3-(2,6-disubstituted phenyl)-5-[4 or 5-arylthio-2 or -3-yl]-1,2,4-triazoles. The difference between Hegde et al. '665 and instant claimed compounds is that instant claimed compounds are instant compounds are isomers of Hegde et al. Suggestion for modification of above record to obtain the instant claimed compounds/compositions, has not been found. Claims 1-21 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusions

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Shiao whose telephone number is (571) 272-0707. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone

Art Unit: 1626


number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TAOFIQ SOLOLA
PRIMARY EXAMINER

Joseph K. McKane
Supervisory Patent Examiner
Art Unit 1626



Robert Shiao, Ph.D.
Patent Examiner
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August 31, 2005